



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,781	04/08/2002	David Horne	DYOUN0215US	6334

7590 06/25/2003

Don W Bulson
Renner Otto Boisselle & Sklar
19th Floor
1621 Euclid Avenue
Cleveland, OH 44115

EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 06/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/868,781

Applicant(s)

HORME, DAVID

Examiner

Naschica S Morrison

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the second Office Action for serial number 09/868,781, An Electrical Cabinet and a Frame therefor, filed on April 8, 2002. Claims 1-8 are pending.

Response to Amendment

In Applicant's comments regarding the amendment filed 3/17/03, Applicant notes that only claim 1 is currently amended. However, claims 3, 5, 7, and 8 were included in their "original" form. It is not clear if Applicant intended to submit the originally filed claims or submit the most recent form of the claims, which were amended in a Preliminary amendment filed 6/21/01. It appears the inclusion of the "original" version of claims 3, 5, 7 and 8 was inadvertent; therefore, the rejection of the claims as follows is based on the amended version of claims 3, 5, 7 and 8.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the other sides" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,606,020 to Kern. With regards to claims 1 (as best understood) and 4, Kern discloses a frame comprising: two transverse members (38,40) located at the top and bottom of the frame) disposed at opposite ends of the frame and at least two side bar members (10,12) located on opposed sides of the transverse members, wherein each of the transverse members has a skeletal form formed from two connected substantially U-shaped bars (38,40) having substantially the same shape with straight bases (at 42, at 44 in Figure 2) and being connected together at the bases; at least one of the other sides of each of the transverse members having a recess, and the side bar members (10,12,14,16) being stepped back from the other sides (i.e. the top side/surface of 38 and the bottom side/surface of 40) of the transverse members to define a space therebetween. Regarding claims 2 and 3, Kern further teaches each of the transverse members including additional bars/side members (14,16) connected thereto.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,488,543 to Mazura et al. (Mazura). With regards to claims 1 (as best understood) and 5-7, Mazura discloses a frame (see marked copy attached to prior Office action) comprising: two transverse members (1,2) disposed at opposite ends of

Art Unit: 3632

the frame and at least two side bar members (3) connecting opposed sides of the transverse members (1,2), wherein each of the transverse members (1,2) has a skeletal form formed from two connected substantially U-shaped bars (red portion, blue portion) having substantially the same shape with straight bases (at 6, at 8) and being connected together at the bases; at least one of the other sides of each of the transverse members (1,2) having a recess, and the side bar members (3) being stepped back from the other sides (i.e. the top side/surface of 2 and the bottom side/surface of 1) of the transverse members (1,2) to define a space therebetween; and further including removable side panels (18), at least one removable door (22), and at least one removable end panel (20). Regarding claims 2-4, Mazura further teaches each of the transverse members (1,2) including two additional bars/side bar members (3) connected thereto.

Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 29709227. With regards to claims 1-5 (as best understood) and 7, DE 29709227 discloses a frame (Fig. 1) comprising: two transverse members (designated by 2 and 4 generally) disposed at opposite ends of the frame and four side bar members (10) located at opposed sides of the transverse members (2,4), wherein each of the transverse members (2,4) has a skeletal form formed from two connected substantially U-shaped bars (see Fig. 2; each defined by 6,16,6) having substantially the same shape with straight bases (at 16) and being connected together (by 8) at the bases; at least one of the other sides of each of the transverse members (2,4) having a recess, and the side bar members (10) being stepped back from the other sides (each transverse

Art Unit: 3632

member has four sides defined by the panels 11, 12, 11, and 13; each side bar member is considered to be stepped back from the two non-adjacent sides of the transverse members; for example, member 10 located at the juncture of panels 11 and 12 is stepped back from non-adjacent panels 13 and 11) of the transverse members (2,4) to define a space therebetween; removable side panels (12,13) and at least one removable end panel (15); and further including additional bars (7) connected to each of the transverse members (2,4).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 29709227 in view of U.S. Patent 5,806,945 to Anderson et al. (Anderson). DE 29709227 discloses the frame as applied above, but does not expressly disclose the removable side panels (12,13) attached to the side members (10) by hooks. Anderson teaches a frame (10) comprising removable side panels (21) attached to side members (12) by hooks (60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the side panels to include hooks because one would have been motivated to provide a means for securely and releasably mounting the side panels to the frame as taught by Anderson.

Response to Arguments

Applicant's arguments filed 3/17/03 have been fully considered but they are not persuasive. Regarding applicant's argument that Kern and Mazura do not teach the side bar members being "stepped back from the other sides" of the transverse members, examiner respectfully disagrees. Kern and Mazura teach this limitation in that the side bar members extend only between the bottom surface of the upper transverse member and the top surface of lower transverse member, and therefore a space is created between the connection of the ends of the side bar members and the respective top and bottom surfaces/sides of the transverse members. Additionally, applicant argues that Mazura's transverse members (1,2) are not "skeletal"; however, examiner respectfully disagrees. Skeletal is defined by Merriam-Webster's Collegiate Dictionary as "of, relating to, forming, attached to, or resembling a skeleton" and skeleton is likewise defined as "something forming a structural frame". Given the broadest reasonable interpretation, the transverse members of Mazura are in deed skeletal. Regarding German patent DE 29709227, the side bar members are stepped back from "the other sides" as applied in the rejection above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

2003/0062326 to Guebre-Tsadik; 6527351 to Sevier et al; 6515225 to Wright;
The above references disclose cabinets/housings relevant to Applicant's invention.


Art Unit: 3632

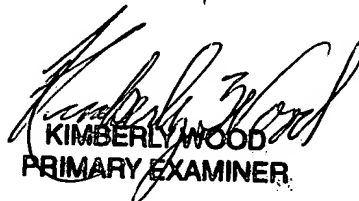
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9326 (formal amendments) or (703) 872-9327 (After Final amendments).

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
6/12/03


KIMBERLY WOOD
PRIMARY EXAMINER